

Application No.: 09/837,496

Docket No. D02049-01

**REMARKS**

**A. Status of the Application**

Claims 25-92 were under consideration in the instant application. The Examiner previously allowed Claims 69-92. Presently Claims 25-68 are rejected.

With this response the Applicant has withdrawn claims 25-68, and requested the amendment of Claim 81.

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**B. Rejections of the Claims under 35 U.S.C. § 102**

The Examiner rejected claims 25-29, 31, 32, 36-40, 42 and 43 as being anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 5,793,425.

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**C. Rejection of the Claims under 35 U.S.C. § 103**

Claims 30 and 40 been rejected as unpatenable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,793,425 in view of U.S. Patent No. 5,321,725.

Claims 33 and 34 been rejected as unpatenable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,793,425 in view of U.S. Patent No. 4,630,098.

Claims 34, 45, 47-52, 54, 57-63, 66 and 68 have been rejected as unpatenable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,793,425 in view of U.S. Patent No. 5,793,425.

Claims 35 and 46 have been rejected as unpatenable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,793,425.

Claims 53 and 64 been rejected as unpatenable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,793,425 in view of U.S. Patent No. 5,321,725 and U.S. Patent No. 5,862,140.

Claims 56 and 67 been rejected as unpatenable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,793,425 in view of U.S. Patent No. 4,630,098 and U.S. Patent No. 5,862,140.

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**D. Presently Requested Amendment of Allowed Claim**

Upon review of allowed Claim 81, Applicants noted that they had made an omission when the claim was originally filed. The clause reading:

means for determining a hit rate surplus or deficit between the  
overall available bit rate and a sum of the initial allocated bit rates;  
and

should have read:

means for determining a hit rate surplus or deficit between the  
overall available bit rate and a sum of the initial allocated bit rates;  
and

Amendment is respectfully requested.

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**CONCLUSION**

Applicant elect to withdraw all presently rejected claims (25-68), and request that this application be passed to allowance with the previously allowed claims (69-92). The presently amended claims are believed to patentably distinguishable from the cited art, and Applicant respectfully requests that they be passed to allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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